

Rockport Board of Appeals  
April 29, 2014  
7:00 P.M.  
Rockport Public Library  
The Brenner Room  
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present Peter Bergholtz (Chairing), Tacy D. San Antonio, Alan Battistelli, Frederick Frithsen, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Michael Bace. Joyce Fossa absent.
- 2) Hearing of Leslie Whelan for a variance to subdivide property and create lots of 3.5 and 3.4 acres, each with 75 foot frontage at 52 Thatcher Road, Rockport.
  - a) Opened 7:30 P.M. Closed 7:46 P.M.
  - b) Members of the Board sitting are Peter Bergholtz (Presiding), Charles W. Christopher, Tacy San Antonio, John N. Rees and Alan Battistelli.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Leslie Whelan of 6 High Street asked to subdivide her mother's 7-acre lot into two lots so that she could build a house.
    - i) Access would be through the water tower access road.
    - ii) The town took a vote at town meeting to allow her sister to use this access.
    - iii) She would go before Town Meeting and also ask for access.
  - e) Peter Bergholtz stated that she needs a variance for a frontage of 75 feet and an access through another location other than the frontage.
  - f) Bob Dunlay of 59 Thatcher road stated concern that the long driveway might cause drainage problems for the neighbors.
  - g) Jeff Walsh of 58 Thatcher Road stated that he wasn't against the development but is also concerned with water run off.
  - h) Minette Kamen of 50 Thatcher Road was concerned with run off and that blasting might cause problems.
- 3) Hearing of S & J Investments, LLC. for a special permit and/or variance to raze three existing structures and construct a multifamily dwelling at 6 South Street, Rockport.
  - a) Opened 7:47 P.M. Closed 8:19 P.M.
  - b) Members of the Board sitting are Peter Bergholtz (presiding), Tacy San Antonio, Alan Battistelli, Lars-Erik Wiberg and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Shawn Cranston, 6 South Street, wishes to raze the existing structures and construct a new multi family dwelling.
    - i) Asking for a 2 family accessory dwelling.
    - ii) Will eliminate cottage as an accessory dwelling. It can be a garage or shed but not a dwelling.
    - iii) Will conform to setbacks.
    - iv) Has sufficient parking.
    - v) Access will be off of South Street.
  - e) Colleen Coogan, 7 South Street Court, was pleased with the plans but is concerned about her well.
  - f) Diane McCurry, 1 South Street Court, was pleased with the plans but concerned with the size and whether it is in keeping with the historical district.

- g) Nicholas Benn, 7 South Street, was concerned with blasting and drainage. Is driveway going to be paved?
  - h) Jean Rappoli, 4 South Street, concerned with drainage, maintenance of the cottage and 52-foot frontage.
  - i) Shawn Cranston replied:
    - i) Cottage tenant will be asked to leave. This could be a condition of the decision.
    - ii) Property will be excavated and graded to channel water to the correct areas.
    - iii) The driveway is gravel and a condition of the decision could be that it stay gravel.
  - j) Tacy San Antonio asked where the drained water would go.
  - k) Shawn stated that it might go to a retaining pond or catch basins.
  - l) Bill Marotta, 13 South Street, asked how close will this be to 10 South Street and was told 93-Feet.
- 4) Hearing of Michael J. and Bonnie L. Hammerl for a special permit and/or variance to attach a first floor, 4.6 by 22 foot deck at the rear of dwelling at 39R Main Street, Rockport.
- a) Opened 8:21 P.M. Closed 8:34 P.M.
  - b) Members of the Board sitting are Peter Bergholtz (presiding), Tacy San Antonio, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Greg Cefalo, 9 South Street Court, represented the petitioners.
    - i) It is a single-family dwelling that has a second story deck.
    - ii) They want to build a deck on the first floor in order to use the door and have a small sitting area.
    - iii) The new deck will abut the property line.
  - e) Letter was submitted by the owners of 45 Main street in strong opposition to this request. The letter is in the file.
  - f) William Squillace, 45 Rear Main Street, is opposed to this petition and would like the Board to deny the request.
    - i) The deck would be very close to abutters being only 3-inches apart.
    - ii) There are environmental effects to placing a cantilever deck over a sea wall.
    - iii) There are also historical concerns.
  - g) Lars-Erik Wiberg asked about the materials that would be used.
  - h) Mr. Cefalo replied that the deck will be pervious and filed intent with the Conservation Commission. Mr. Hammerl has no intentions of renting the property. The deck is more than 20-feet from the deck of 45 Main Street.
- 5) Hearing of Kenneth F. MacDowell for a special permit and/or variance to provide common driveway access for a new dwelling and an existing multiple dwelling unit at, respectively, 40 and 42/44 Mount Pleasant Street, Rockport.
- a) Opened 8:35 P.M. Closed 9:25 P.M.
  - b) Members of the Board sitting are Charles W. Christopher (presiding), John N. Rees, Alan Battistelli, Frederick Frithsen and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Attorney Robert Coakley, 64 Middle Street, Gloucester, represented the petitioners.
    - i) Provided some supplemental material that was stamped in.
    - ii) This parcel is residential zoned with 3 separate lots.
    - iii) Mr. MacDowell purchased it from the Pekham estate.
    - iv) All zoning requirements are being met.

- v) The historical commission was concerned with the location of the garage so Mr. McDowell moved it to the rear of the property so that it will not be seen from the road.
  - vi) This caused a problem, as you would have 2 driveways side by side just a couple of feet apart.
  - vii) He wants to access property not through the frontage so that a shared driveway could be used for the 2 houses.
  - viii) This requires a variance.
  - e) Michael Bace asked how do you justify need for variance.
  - f) Mr. Coakley replied;
    - i) Historical Commission's concerns
    - ii) Would lose tree and greenery.
    - iii) Not detrimental to Town.
    - iv) Not out of keeping with the neighborhood.
  - g) This could be a special permit to join lots and make it like a condo with a shared driveway. A special permit is easier to justify.
  - h) Alan Battistelli remarked that 40 needs relief from not accessing through its frontage and 42-44 needs relief to get to parking spaces.
  - i) Mr. Coakley said that they don't need any relief for parking.
  - j) Charles W. Christopher asked for hardships that would justify granting a variance.
  - k) Mr. Coakley replied;
    - i) Trying to eliminate gap tooth effect.
    - ii) Don't want to combine the lots
    - iii) Location of structure made this a hardship because of the request of the Historical Commission.
  - l) Ken McDowell, 330 High Street, Gloucester, most of this situation was caused by the requirements of the Historical Commission.
  - m) Alan Battistelli remarked that the moving of the telephone pole is a hardship.
  - n) Jane Rapolli, 3 South Street, concerned with the number of trees that came down. She would like them replanted.
- 6) Hearing of 57 High Street Properties LLC for a special permit and/or variance to construct a three-family, townhouse/condominium-style residence on property at 15 Sandy Bay Terrace, Rockport.
- a) Opened 9:26 P.M. Continued.
  - b) Members of the Board sitting are Peter Bergholtz (presiding), Tacy San Antonio, John N. Rees, Alan Battistelli and Joyce Fossa.
  - c) Petitioner asked for a continuance as the Planning Board is concerned with parking.
  - d) Alan Battistelli moved to extend it to the May meeting and Charles W. Christopher seconded. It passed unanimously with Peter Bergholtz, Tacy San Antonio, John N. Rees and Alan Battistelli voting.
- 7) Ellen Lidington, 15 South Street, submitted a letter withdrawing her request.
- a) Lars-Erik Wiberg moved to accept the withdrawal and Frederick Frithsen seconded. It passed unanimously with Peter Bergholtz, Charles W. Christopher, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace voting.
  - b) The Chairman, Peter Bergholtz, will write a letter to Ellen Lidington accepting her withdrawal.
- 8) Hearing of Judith A. Brosnan, John A. and James J. Ketchopulus for a special permit and/or variance to construct a dwelling at 5 Poole's Lane, Rockport.

- a) Opened 9:40 P.M. Closed 9:48 P.M.
  - b) Members of the Board sitting are Peter Bergholtz (presiding), Charles W. Christopher, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Attorney Joel Favazza, 111 Main Street, Gloucester, represented the petitioners.
    - i) The previous structure was razed in May of 2012 and they wish to replace it with a new house.
    - ii) The front setback is non-conforming but the new house will be less non-conforming than the previous one.
    - iii) It will be a single-family house.
- 9) Approval of Minutes
- a) March 25, 2014 Board Meeting
  - b) Alan Battistelli moved to accept the minutes as presented. Lars-Erik Wiberg seconded.
  - c) The motion passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Alan Battistelli, Frederick Frithsen, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Michael Bace voting.
- 10) Old Business:
- a) New Application and Rules of Procedure are copied and available at Town Hall. An electronic version of this form is available online
  - b) Filing electronically is still being worked out.
- 11) New Business
- a) Randall/Taubner decision Lars-Erik Wiberg clarified the decision and if the stairs might impact the decision but they did not.
- 12) Discussion of Hearings
- a) Leslie Whelan needs two variances.
    - i) One for access not through frontage and the other for the amount of frontage. Permission from the town must be obtained for access through the water tower road.
    - ii) John N. Rees moved to grant the variances and Alan Battistelli seconded.
    - iii) The motion passed unanimously with Peter Bergholtz, Charles W. Christopher, Tacy San Antonio, John N. Rees and Alan Battistelli voting.
  - b) S & J Investments, LLC
    - i) Decision would need conditions.
      - (1) Cottage cannot be a dwelling.
      - (2) Water drainage will be controlled with dry wells.
      - (3) Two family accessory dwelling.
    - ii) Alan Battistelli moved to approve with conditions and Michael Bace seconded.
    - iii) The motion passed unanimously with Peter Bergholtz, Tacy San Antonio, Alan Battistelli, Lars-Erik Wiberg and Michael Bace voting.
  - c) Michael J. and Bonnie L. Hammerl
    - i) Lars-Erik Wiberg moved to grant request and Frederick Frithsen seconded.
    - ii) The motion passed unanimously with Peter Bergholtz, Tacy San Antonio, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen voting.
  - d) Kenneth F. MacDowell
    - i) Requesting a common driveway. Not enough of a hardship for a variance.
    - ii) Charles W. Christopher moved to deny the variance request and Frederick Frithsen seconded.
    - iii) The motion was unanimously denied with Charles W. Christopher, John N. Rees, Alan Battistelli, Frederick Frithsen and Michael Bace voting.
  - e) Judith Brosnan, John and James Ketchopulus

- i) Frederick Frithsen moved to grant the petition and Lars-Erik Wiberg seconded.
- ii) The motion passed unanimously with Peter Bergholtz, Charles W. Christopher, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace voting.

13) Next Possible Meeting May 27, 2014

14) Motion to adjourn made by John N. Rees and seconded by Frederick Frithsen. Passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Alan Battistelli, Frederick Frithsen, Lars-Erik Wiberg, Charles W. Christopher, John N. Rees and Michael Bace voting.  
Adjournment at 10:20 P.M.